

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
NORTHWESTERN DIVISION**

CLARENCE CRAYTON, JOHN K.)
ATKINSON, DON HAATAJA,)
LARRY LIPE, and J. LYNN FREEMAN,)
as personal representative of THE)
ESTATE OF JOHN C. ROBERTS,)
Deceased,)

Plaintiffs,)

vs.)

CIVIL ACTION NO.:
3:11-cv-3912-PWG

ARMSTRONG INTERNATIONAL,)
INC., ET AL.,)

Defendants.)

DEFENDANT OWENS-ILLINOIS, INC.'S
MOTION TO DISMISS, OR, IN THE ALTERNATIVE, MOTION FOR MORE
DEFINITE STATEMENT AND SEVERANCE

Comes the Defendant, Owens-Illinois, Inc. ("OI"), by and through counsel, pursuant to Rules 8(a)(2) and 12(b)(6) of the Federal Rules of Civil Procedure, and respectively moves this Court to dismiss this case for failure to state a claim upon which relief can be granted.¹ *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007); *Ashcroft v. Iqbal*, 556 U.S. 662 (2009). In the alternative, OI moves this Court pursuant to Rules 12(e), 20 and 21 of the Federal Rules of Civil Procedure to require the plaintiffs to file individual amended Complaints in separate actions in which they each provide a more definite statement of the basis for their claims against Defendant OI.

As grounds for this Motion, Defendant OI expressly incorporates herein the factual statements, legal arguments, and exhibits contained in Flowserve Corporation f/k/a The Duriron Company, Inc.'s Motion to Dismiss Or, in the Alternative, Motion for a More Definite

¹ Defendant OI files this Motion in Response to the Original Complaint [Doc. #1] and Plaintiff's First Amended Complaint [Doc. # 3], collectively referred to as Complaint.

Statement, and Motion to Sever [Doc. #s 70, 70-1, and 70-2], filed by defendant Flowserve Corporation f/k/a The Duriron Company, Inc. on June 8, 2012, as they relate to defendant O-I.

Defendant O-I specifically reserves and does not waive all other available defenses it may have in this cause, including, but not limited to, all defenses available pursuant to Rule 12(b) of the Federal Rules of Civil Procedure.

WHEREFORE, Defendant O-I respectfully requests that this Court dismiss plaintiff's Complaint pursuant to 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim upon which relief can be granted, or in the alternative, require each plaintiff pursuant to Rule 12(e) of the Federal Rules of Civil Procedure to provide a more definite statement of his or her factual and legal claims in this case such that defendant O-I is placed on notice as to the claims being made against it so that this defendant shall be able to adequately prepare a defense and response to same and to allow the parties to conduct meaningful discovery in order to appropriately frame the issues before this Court in separate, individual actions pursuant to Rules 20 and 21 of the Federal Rules of Civil Procedure.

Respectfully submitted this 11th day of June, 2012.

/s/ Anthony C. Harlow
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CERTIFICATE OF SERVICE

I, Anthony C. Harlow, do hereby certify that on June 11, 2012, I electronically filed the above and foregoing pleading with the Clerk of the Court using the CM/ECF system which sends notification of such filing to all counsel of record in this case.

/s/ Anthony C. Harlow
Anthony C. Harlow